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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 UNITED STATES OF AMERICA

5 v.

15 CR 867 (RMB)

6 REZA ZARRAB

7 Defendant

8 -----x

9 New York, N.Y.  
10 June 20, 2016  
11 9:00 a.m.

12 Before:

13 HON. RICHARD M. BERMAN

District Judge

14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
17 Southern District of New York

18 SID KAMARAJU

19 MICHAEL D. LOCKARD

20 Assistant United States Attorney

21 BRAFMAN & ASSOCIATES PC

22 Attorneys for Defendant Zarrab

23 BENJAMIN BRAFMAN

24 MARC AGNIFILO

25 JOSHUA KIRSCHNER

-Also Present-

S.A. JENNIFER McREYNOLDS, FBI

S.A. SCOTT GEISSLER, FBI

GEORGE ESAYAN, Interpreter (Turkish)

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(In open court; case called)

THE COURT: This is our adjourned conference. It was originally scheduled for June 16. One of the principal topics was to be, and maybe still will be, scheduling the remainder of these proceedings. In the intervening period, as you are all aware, I had issued an order last week denying the application for bail. In doing that, I recognize that there may create more urgency to move the case along, and I just want you to know I am ready, willing and able to do that. Whenever you want to have and are ready for a trial, so will I be.

I note for the record that we have a Turkish language interpreter.

That is really it from me. I'm happy to hear from Mr. Brafman.

MR. BRAFMAN: Good morning, your Honor.

THE COURT: Good morning.

MR. BRAFMAN: Your Honor, most respectfully, we have reviewed the Court's decision on bail, and we are considering at this time filing a notice of appeal. We have not yet done so, and obviously if and when we do so, we will notify the Court as a courtesy and also the government.

THE COURT: OK.

MR. BRAFMAN: We have had an opportunity to confer with the government, and subject to your Honor's approval, we agree, sir, that in view of the defendant's current remand

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1 status that we should try our best to expedite the proceedings,  
2 and, accordingly, we have suggested to the government that we  
3 will file motions to dismiss the indictment by July 15. They  
4 have asked for August 5 to respond.

5 THE COURT: July 15.

6 MR. BRAFMAN: 15.

7 THE COURT: Is your motion?

8 MR. BRAFMAN: Correct.

9 THE COURT: And their response is when?

10 MR. BRAFMAN: August 5. We would ask for August 19  
11 for reply if we deem a reply is appropriate. Then if your  
12 Honor would consider hearing argument on the motions, we would  
13 then ask for a September date consistent with the Court's own  
14 schedule.

15 THE COURT: Sure. Let me just go over that with you  
16 again.

17 July 15 is the motion. August 5 is the opposition.  
18 Was it August 19 for reply?

19 MR. BRAFMAN: Yes, sir.

20 THE COURT: Let me give you a date now. Is it all  
21 right then to have an oral argument in early September? Are  
22 you saying that?

23 MR. BRAFMAN: Yes, sir.

24 THE COURT: For both sides?

25 MR. KAMARAJU: That's fine for the government, your

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1 Honor.

2 THE COURT: Mr. Brafman, how soon would you like it  
3 after Labor Day? I could do it very soon or I don't know if  
4 you have plans.

5 MR. BRAFMAN: The week of September 5, your Honor, if  
6 that's acceptable to the government.

7 THE COURT: I can do that.

8 MR. KAMARAJU: That's fine with us, your Honor.

9 THE COURT: How about on September 6 at 11:00 a.m.?  
10 Does that work for everybody?

11 MR. KAMARAJU: That's fine for the government, your  
12 Honor.

13 MR. BRAFMAN: Your Honor, if I may.

14 THE COURT: Yes.

15 MR. BRAFMAN: With respect to a trial date, I want to  
16 ask the Court for a date, but I just want your Honor to  
17 understand, sir, the following issues that we are presently  
18 trying to figure out.

19 Discovery in this case is voluminous. It involves, by  
20 our expert's count, hundreds of thousands of wire transfers and  
21 hundreds of thousands of emails, many of them not in the  
22 English language. Logistically, at present, MCC does not have  
23 a computer that is capable of dealing with the discovery in the  
24 format that it's been provided to us, but we are trying to  
25 resolve that, and we are talking to the government as well.

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1 They have offered to assist us if necessary if we can't resolve  
2 it on our own; and if we run into real problems, we will come  
3 back to the Court to seek your Honor's guidance.

4 We are asking for a trial date in February of 2017,  
5 but I would ask the Court for the following flexibility.

6 Depending on our ability to access the discovery material and  
7 be able to review it with our client in this remand status, we  
8 would like to be able to confirm that as a workable trial date  
9 when we come back in September.

10 THE COURT: So why don't I give you one, set something  
11 aside so we have the space blocked out, understanding that it  
12 is subject to adjustment depending on how long it takes to  
13 complete review of discovery. Is that fair?

14 MR. BRAFMAN: Yes, sir.

15 THE COURT: How long do you all anticipate a trial  
16 likely would be?

17 MR. KAMARAJU: Obviously, your Honor, it's subject to  
18 stipulations and whatever defense case there is, but  
19 conservatively we'd estimate about three weeks.

20 MR. BRAFMAN: I think to be safe, the Court should set  
21 aside a month.

22 THE COURT: It would be best to make sure we set aside  
23 enough time. Could you tentatively go along with starting  
24 January 23?

25 MR. BRAFMAN: Yes, your Honor.

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1 THE COURT: So let's set the trial date for  
2 January 23. Then I know I have plenty of time.

3 Anything from the government?

4 MR. KAMARAJU: Yes, your Honor. Just in light of the  
5 anticipated motions and to allow time for the defendant to  
6 review the discovery, we'd ask to exclude time until  
7 January 23, the date of trial.

8 MR. BRAFMAN: That's on our application, your Honor,  
9 so we have no problem with that.

10 THE COURT: I will also find under 18 United States  
11 Code, Section 3161 that the request for adjournment joined in  
12 by both sides to and including January 23, 2017 is appropriate  
13 and warrants exclusion of the adjourned time from speedy trial  
14 calculations.

15 I further find that the exclusion is designed to  
16 prevent any possible miscarriage of justice, to facilitate  
17 these proceedings including motion practice and preparation for  
18 trial if there will need to be one, and to guarantee effective  
19 representation of and preparation by counsel for both sides.  
20 Thus, the need for exclusion and the ends of justice outweigh  
21 the interest of the public and the defendant in a speedy trial  
22 pursuant to 18 U.S.C., Section 3161(h)(7)(A) and (B).

23 That is my agenda. Do you have anything else the  
24 government?

25 MR. KAMARAJU: Nothing further from the government,

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1 your Honor.

2 THE COURT: Mr. Brafman, anything further?

3 MR. BRAFMAN: No, sir.

4 THE COURT: Great to see you all. Thanks very much.  
5 Wait a minute. Hold on a second.

6 (Pause)

7 THE COURT: So when we get together in September, we  
8 will see where things stand, as it were, and ask you to block  
9 out just for scheduling any pretrial conference or motions  
10 related to trial, etc., etc.

11 MR. BRAFMAN: Yes, sir.

12 THE COURT: We could talk about that, I think, in  
13 September.

14 MR. BRAFMAN: Yes, sir.

15 THE COURT: Great. Nice to see you.

16 (Adjourned)